

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

PATRICK DANIEL, #465128,

Petitioner,

v.

CASE NO. 07-CV-12273

BARRY DAVIS,

Respondent.

ORDER DENYING A CERTIFICATE OF APPEALABILITY

Michigan prisoner Patrick Daniel ("Petitioner") filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his 2003 state court convictions for two counts of first-degree murder, Mich. Comp. Laws § 750.316(1)(a), and one count of mutilation of a human body, Mich. Comp. Laws § 750.160, for which he was sentenced to concurrent terms of life imprisonment without the possibility of parole and three to ten years imprisonment, respectively. On March 29, 2010, the court denied the petition and denied a certificate of appealability. On January 3, 2011, the United States Court of Appeals for the Sixth Circuit also denied a certificate of appealability.

Petitioner thereafter filed post-judgment motions for relief from judgment, to recuse the district court, to stay proceedings, and to transfer consideration of filings, which this court denied on December 19, 2011. Petitioner then filed a notice of appeal and an application to proceed *in forma pauperis* on appeal regarding the denial of his post-judgment motions. The court denied the application to proceed *in forma pauperis* on January 17, 2012, but did not make a certificate of appealability ruling at that time.

A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). When a federal district court denies relief on the merits of a claim, the substantial showing threshold is met if the petitioner demonstrates that reasonable jurists would find the court’s assessment of the constitutional claim debatable or wrong. *See Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). “A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In applying this standard, a district court may not conduct a full merits review, but must limit its examination to a threshold inquiry into the underlying merit of the petitioner’s claims. *Id.* at 336-37. Having reviewed the matter, the court concludes that Petitioner has not made a substantial showing of the denial of a constitutional right as to his habeas claims or his post-judgment motions. Accordingly, the court DENIES a certificate of appealability.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: March 2, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, March 2, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522